

Page 1

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 - - - - -
5 ADRIAN SCHOOLCRAFT,
6 Plaintiff,
7 -against- Index No.
8 10CIV-6005 (RWS)
9
10 THE CITY OF NEW YORK, DEPUTY CHIEF
11 MICHAEL MARINO, Tax Id. 873220,
12 Individually and in his Official
13 Capacity, ASSISTANT CHIEF PATROL
14 BOROUGH BROOKLYN NORTH GERALD NELSON,
15 Tax Id. 912370, Individually and in his
16 Official Capacity, DEPUTY INSPECTOR
17 STEVEN MAURIELLO, Tax Id. 895117,
18 Individually and in his Official
19 Capacity, CAPTAIN THEODORE LAUTERBORN,
20 Tax Id. 897840, Individually and in his
21 Official Capacity, LIEUTENANT JOSEPH
22 GOFF, Tax Id. 894025, Individually and
23 in his Official Capacity, stg. Frederick
24 Sawyer, Shield No. 2576, Individually
25 and in his Official Capacity, SERGEANT
KURT DUNCAN, Shield No. 2483,
Individually and in his Official
Capacity, LIEUTENANT TIMOTHY CAUGHEY,
Tax Id. 885374, Individually and in his
Official Capacity, SERGEANT SHANTEL
JAMES, Shield No. 3004, and P.O.'s "JOHN
DOE" 1-50, Individually and in their
Official Capacity (the name John Doe
being fictitious, as the true names are
presently unknown) (collectively referred
to as "NYPD defendants"), JAMAICA
HOSPITAL MEDICAL CENTER, DR. ISAK ISAKOV,
Individually and in his Official
Capacity, DR. LILIAN ALDANA-BERNIER,
Individually and in her Official Capacity
and JAMAICA HOSPITAL MEDICAL CENTER
EMPLOYEES "JOHN DOE" # 1-50, Individually
(Continued)

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1

2 and in their Official Capacity (the name
John Doe being fictitious, as the true
3 names are presently unknown),

4

Defendants.

5

6

111 Broadway

New York, New York

8

February 12, 2014

10:21 a.m.

10

10 VIDEOTAPEDEPOSITION OF DR. ISAK
11 ISAKOV, one of the Defendants in the
12 above-entitled action, held at the above
13 time and place, taken before Margaret
14 Scully-Ayers, a Shorthand Reporter and
15 Notary Public of the State of New York,
16 pursuant to the Federal Rules of Civil
17 Procedure.

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* * *

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1 I. ISAKOV

2 not mention about my morning interaction.

3 Q. So there is no note about the
4 morning interaction?

5 MR. DEVINE: Read your note,

6 Doctor, and answer his question.

7 A. This is what I'm writing over
8 here, "On evaluation today patient
9 anxious, suspicious, guarded, demanded to
10 be discharged, and restless.

11 This is what I'm implying that
12 my interaction with him in the morning,
13 but I didn't specify the morning.

14 And he expressing questionable
15 paranoid ideas --

16 Q. We are just asking about your
17 interaction in the morning.

18 Is there a note that says I had
19 an interaction in the morning or
20 something like that?

21 A. No.

22 Q. Doctor, why don't we do what
23 you were doing now: have you read your
24 note into the record and I may interrupt
25 you to ask you question as you go along.

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1 I. ISAKOV

2 If you can read the note into
3 the record?

4 MR. SMITH: Slowly.

5 Q. Slowly and clearly so she can
6 take it down.

7 A. "Psychiatric admission note
8 November 4, 2009, 2 p.m.

9 "Patient is 34 years old white,
10 single male; police officer; without past
11 psychiatric history; not on any
12 psychotropic medication; no current or
13 previous history of drugs or alcohol
14 abuse.

15 "He stated he was working in
16 police department for approximately six
17 years from the beginning of his career."

18 He was not happy,
19 quote/unquote, with quote/unquote, with
20 how the precinct was, quote/unquote, run
21 and was making multiple complaints that
22 was not, quote/unquote, addressed.

23 Instead he was quote/unquote unstable and
24 his gun was taken away from him
25 approximately six months ago after

1 I. ISAKOV

2 psychiatric evaluation by police
3 psychiatrist.

4 Q. Let me stop you for a second.

5 That's a pretty detailed
6 history, correct, he was able to
7 communicate that.

8 A. That happen afterward, not from
9 the first communication that I have with
10 him.

11 Q. You can understand that a man
12 who just was locked into a psychiatric
13 ward might not be a happy to be there,
14 correct?

15 A. Definitely.

16 Q. And it may take him a couple of
17 hours to be willing to talk to you,
18 correct?

19 A. Yes.

20 Q. And now he was talking to you,
21 correct?

22 A. Yes.

23 Q. And now he is being pretty
24 detailed about what his thought processes
25 were?

1 I. ISAKOV

2 A. Yes.

3 Q. He is not being guarded at all,
4 correct?

5 A. When he was talking to me and
6 providing this information, yes. He was
7 open, yes.

8 Q. And he is cooperating with you
9 at that point?

10 A. Yes.

11 Q. Saying it in at least a calm
12 enough way for you to understand it so
13 you can write it down?

14 A. He was anxious, not that he was
15 completely calm. He had a lot of
16 anxiety, things going on the way he
17 doesn't want them to go on.

18 Q. You say he had a lot of
19 anxiety, and he was anxious. Did you
20 make a note he had anxiety?

21 A. I put over here, "the patient
22 anxious, suspicious, guarded, demanded to
23 be discharge, restless."

24 Q. Continue on.

25 A. Since then he started to

1 I. ISAKOV
2 collect the, quote/unquote, evidence to
3 prove his point. And become suspicious
4 they were after him, quote/unquote.

5 On the day of admission he had
6 verbal altercation with one of the
7 officers who was, quote/unquote,
8 threatening him, and he left his job
9 before his shift was over with excuse
10 that he was not feeling well.

11 "He came home, took Nyquil and
12 fall asleep. He was waken up by police
13 officer in his bedroom and was asked to
14 come with him to precinct.

15 "After he refused to going
16 voluntary and complain of stomach pain
17 and headache, patient was handcuffed and
18 brought to emergency room of Jamaica
19 Hospital by EMS."

20 "He was evaluated by ER
21 attending and psychiatrist and after
22 medical clearance transferred to
23 psychiatric emergency room with
24 questionable psychosis NOS."

25 Q. Let me stop you for a second.

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1 I. ISAKOV

2 Question mark, psychosis, NOS,
3 that's your interpretation of his
4 condition or your interpretation of what
5 the physician in the emergency room
6 diagnosed?

7 A. Yeah, that's I'm implying he
8 was transferred to psychiatric emergency
9 room with questionable psychosis.

10 Q. Who made the questionable
11 diagnosis?

12 MR. RADOMISLI: Objection to
13 form.

14 Q. The psychiatric emergency room,
15 the medical emergency room, or a
16 resident, a psychiatric resident --

17 MR. RADOMISLI: Objection to
18 form.

19 MR. SHAFFER: I join in the
20 objection.

21 THE WITNESS: Excuse me?

22 MR. CALLAN: We are all joining
23 in the objection.

24 Q. When you wrote that, what did
25 you mean?

1 I. ISAKOV

2 A. I mean that the process of
3 transfer to psychiatric emergency room
4 indication was made that he has symptom
5 of psychosis and need to be further
6 evaluated in psychiatric emergency room.

7 Q. But did somebody write in the
8 medical unit --

9 A. That's what I wrote.

10 Q. -- questionable psychosis?

11 A. Sorry?

12 Q. Did somebody write in the
13 medical chart in the medical emergency
14 room questionable psychosis?

15 A. I don't believe they wrote
16 questionable psychosis. They wrote that
17 there is psychosis.

18 Q. Where did you get the
19 impression it was a questionable
20 psychosis?

21 A. Maybe I put my own impression
22 in this. They did not question from what
23 I -- when I reviewed the chart yesterday,
24 they actually didn't have question having
25 that he had psychosis.

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1 I. ISAKOV

2 Q. Sorry. Continue.

3 A. "Admitted Psychiatric No. 3 on
4 11/3/09 for further evaluation."

5 Q. Okay. Was that your impression
6 of the reason he was sent to the unit or
7 was that a thought that you were
8 referring to from the emergency room or
9 something else?

10 MR. RADOMISLI: Objection to
11 form.

12 A. I believe it's combination of
13 everything that I had information.

14 Q. So he needed to be further
15 evaluated?

16 A. Right.

17 Q. That's why he was sent up to
18 the Y3 unit, correct?

19 MR. RADOMISLI: Objection to
20 form.

21 A. Yes, this is what I phrased his
22 admission that he need further
23 evaluation.

24 And if you read 9.39 what Dr.
25 Bernier wrote, it's not only for the

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1 I. ISAKOV

2 evaluation and treatment but because she
3 feel he is dangerous to himself.

4 Q. But you are writing this and
5 you're an independent doctor, correct?

6 A. I know, but I make my decision
7 not on this sentence. I making my
8 decision to keep him or not to keep him
9 by evaluating all evidence that I have.

10 Q. When you wrote that, you had an
11 impression as to why that patient was in
12 your unit, correct?

13 A. I don't think I mean only
14 evaluation. I mean everything that he
15 has information in the chart.

16 Q. So your note is not accurate?

17 MR. RADOMISLI: Objection.

18 A. It's accurate. I don't think
19 this sentence is only real reason for his
20 admission.

21 Q. So you wrote this, but it
22 wasn't the real reason?

23 A. Not only the reason.

24 Q. So there were other reasons
25 that you left out of your notes?

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1 I. ISAKOV

2 MR. RADOMISLI: Objection.

3 A. I have didn't leave out. I
4 wrote in my 9.39.

5 MR. RADOMISLI: Let him finish
6 the note.

7 MR. SUCKLE: Why don't you stop
8 interrupting and speaking on the
9 record.

10 MR. SHAFFER: I don't think he's
11 interrupted, for the record. It
12 doesn't appear he has multiple times.

13 MR. SUCKLE: One is more than
14 enough in federal court.

15 MR. RADOMISLI: Stop badgering
16 him.

17 MR. SUCKLE: Read back the last
18 question before I was interpreted by
19 counsel.

20 [The requested portion of the
21 record was read.]

22 Q. Before you were interpreted,
23 you wrote in your 9.39, what does that
24 mean?

25 MR. RADOMISLI: Objection.

1 I. ISAKOV

2 A. I think that the reason I feel
3 that he needed admission is not only
4 reflected in this note, but in all review
5 of the chart that I reviewed and note
6 that I made in second part of 9.39.

7 Q. Was the patient sitting in
8 front of you when you wrote this note?

9 A. No.

10 Q. You met the patient?

11 A. I met the patient and I went to
12 the nursing station and I write the note.

13 Q. And you had the opportunity to
14 write whatever you wanted to write in
15 your note, correct?

16 A. What I felt needed to be
17 written in the chart at that point, I
18 wrote.

19 Q. And when you were writing what
20 you felt should be written in the chart,
21 you wrote that he was admitted for
22 further evaluation, correct?

23 A. Correct. Not only evaluation.

24 Q. But that's what you wrote,
25 correct?

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1 I. ISAKOV

2 A. You are reading one sentence of
3 my whole evaluation of patient, and I
4 don't believe it's accurate impression
5 why I felt he needed to be in the
6 hospital.

7 Q. I understand that. I'm just
8 asking what you wrote.

9 A. This is the sentence I wrote,
10 yes, but you're implying if this is my
11 decision only for evaluation he was
12 admitted. I will tell you no.

13 Q. I didn't imply anything.

14 A. You ask me.

15 MR. DEVINE: Hold it, Doctor.

16 Q. I'm asking is it the only
17 reason that you wrote that he was
18 admitted to Y3 in this note further
19 evaluation?

20 MR. RADOMISLI: Objection.

21 A. I don't think this sentence is
22 reflecting the reason why he was
23 admitted.

24 Q. So the sentence would be
25 inaccurate then why --

1 I. ISAKOV

2 MR. RADOMISLI: Objection.

3 A. It's accurate, but it's not
4 reflecting the full reason for admission.

5 Q. So it's not complete?

6 MR. RADOMISLI: Objection.

7 A. The sentence doesn't have
8 anything to do with the reason why he was
9 admitted. It's one of the reasons he was
10 admitted is evaluation, but that's the
11 only reason.

12 Q. But you just chose not to write
13 those other reasons at that time?

14 MR. KRETZ: Objection.

15 MR. RADOMISLI: Objection.

16 A. I didn't think about not
17 choosing to write that.

18 Q. Well, is there a reason you
19 didn't write other reasons?

20 MR. RADOMISLI: Objection to
21 form.

22 Q. For his admission in that
23 sentence?

24 A. I cannot tell you more than I
25 already told.

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1 I. ISAKOV

2 Q. So you have no reasons that
3 come to mind as you sit here why you
4 didn't write more about why he was
5 admitted in that sentence, correct?

6 MR. RADOMISLI: Objection.

7 A. Yes.

8 Q. Let's continue on reading.

9 A. "On evaluation to date, patient
10 anxious, suspicious, guarded, demanding
11 to be discharged, and restless.

12 "He denied suicidal/homicidal
13 ideations. Denied visual and auditory
14 hallucination. Expressed questionable
15 paranoid quality ideas about conspiracy
16 and coverups."

17 Q. Is that conspiracy or
18 corruption?

19 A. Corruption. Sorry.

20 Q. Let's read.

21 A. "Expressed questionable
22 paranoid quality ideas about corruption
23 and coverups in precinct."

24 Q. So you have now said what we
25 talked about earlier that you don't have

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1 I. ISAKOV

2 a hundred percent comfort that he was
3 paranoid, it was questionable in your
4 mind at this point?

5 A. Right.

6 Q. Previously, you indicated that
7 at least it was your impression in the
8 emergency room the impression was a
9 questionable psychosis, correct?

10 A. Yes.

11 Q. And what else was in your mind
12 or not in your mind, what you wrote was
13 that he was there for further evaluation,
14 correct?

15 MR. RADOMISLI: Objection.

16 Q. That's what you wrote?

17 A. Repeat again.

18 Q. Regardless of what you thought
19 or what you reviewed from other records,
20 what you wrote at that time at 2 p.m., he
21 was there for further evaluation, that's
22 what you wrote, correct?

23 MR. RADOMISLI: Objection.

24 MR. KRETZ: Objection.

25 A. It's, again, even if I wrote

1 I. ISAKOV

2 over here just word "evaluation," it
3 didn't mean that his admission was just
4 for evaluation. It was
5 evaluation/treatment.

6 Q. May I ask you this: You are
7 questioning whether or not the diagnosis
8 of psychosis NOS in the emergency room,
9 and you are questioning whether or not
10 the diagnosis of paranoid is appropriate?

11 A. Right.

12 Q. And you need to evaluate those,
13 correct?

14 MR. RADOMISLI: Objection to
15 form.

16 A. I need to come to the
17 conclusion what then I will be
18 comfortable with, getting more and more
19 information.

20 Q. So you needed more information;
21 that's why you wrote further evaluation?

22 A. Right.

23 Q. Continue reading after the word
24 "precinct."

25 A. Cognition and memory intact.

1 I. ISAKOV

2 Insight and judgment limited.

3 Q. The insight and judgment
4 limited had to do with the questionable
5 paranoia?

6 A. Right.

7 Q. Diagnosis?

8 A. "Psychosis NOS. Rule out
9 adjustment disorder with anxiety."

10 Q. What is an adjustment disorder
11 with anxiety?

12 A. When the people under the
13 stress not able to deal with the
14 situation appropriately.

15 Q. Why would you think that was a
16 possibility in Mr. Schoolcraft's case?

17 A. I told you because I wasn't
18 hundred percent sure if it's paranoia or
19 it's reality.

20 Q. Something he said to you, some
21 way he presented to you gave you some
22 pause as to whether or not he was
23 paranoid; is that fair?

24 MR. RADOMISLI: Objection to
25 form.

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1 I. ISAKOV

2 A. Was not or was?

3 Q. Was not?

4 A. Was not?

5 Q. Yes.

6 A. That's why I put to rule out
7 diagnosis.

8 Q. The rest of this note.

9 A. "Will obtain additional
10 information."

11 Q. What was your intention in
12 writing that?

13 A. To come to conclusion what to
14 do next and how to help him
15 appropriately.

16 I don't have enough information
17 in the chart that we already have. I
18 need to get more information to finalize
19 my diagnosis and offer the appropriate
20 treatment.

21 Q. You needed to finalized your
22 diagnosis of psychosis NOS?

23 A. Or adjustment.

24 Q. Or adjustment.

25 You needed more information?

1 I. ISAKOV

2 A. More information.

3 MR. SUCKLE: We will stop for

4 now.

5 MR. SMITH: Going off the
6 record. It is 1:35 p.m.

7 [Discussion held off the
8 record.]

9 [Whereupon, at 1:35 p.m., a
10 recess was taken.]

11 [Whereupon, at 2:21 p.m., the
12 testimony continued.]

13 MR. SMITH: It's 2:21. We are
14 continuing the deposition of Dr.
15 Isakov.

16 Q. Doctor, bringing your attention
17 to the form in the chart says, "Emergency
18 Admission Section 9.39 Mental Hygiene
19 Law." Have you ever been able to find
20 that?

21 A. Yes.

22 Q. Did you make any notation on
23 that form?

24 A. I filled out the second part of
25 it.

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1 I. ISAKOV

2 MR. DEVINE: You mean the second
3 page, Doctor?

4 THE WITNESS: The second page.

5 Q. Doctor, why did you fill out
6 the second page?

7 A. Because there is a Mental
8 Hygiene Law that it should be two
9 physicians' evaluation need to make the
10 statement that the patient need to be
11 admitted to the hospital involuntary.

12 Q. Doctor, what time was the first
13 physician's determination to hold Mr.

14 MR. SUCKLE: Withdrawn.

15 Q. What date and time was the
16 first physician's decision to hold Mr.
17 Schoolcraft under the Mental Hygiene Law
18 Section 9.39?

19 MR. DEVINE: Objection to the
20 form of the question.

21 Are you asking him -- well,
22 objection to the form.

23 Are you asking him Dr. Bernier?

24 MR. SUCKLE: I will do it very
25 specifically.

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1 I. ISAKOV

2 Q. When did Dr. Bernier invoke the
3 Section 9.39 of Mental Hygiene Law and
4 admit the patient pursuant to that
5 statute?

6 MR. RADOMISLI: Objection to
7 form.

8 MR. CALLAN: Same objection.

9 Q. From your review of the chart?

10 A. She was writing on 11/03/2009,
11 1:20, she made decision to admit the
12 patient.

13 Q. Do you understand if there is
14 any time factor required for the second
15 physician's signature or approval?

16 A. Forty-eight hours I believe.

17 Q. Is it 48 hours from when the
18 decision is made by the first physician
19 to admit the patient, 48 hours, or
20 something else?

21 MR. CALLAN: Objection to the
22 form of the question.

23 Q. Your understanding of the
24 requirement, when does that 48 hours
25 begin.

1 I. ISAKOV

2 A. The 48 hours I believe begins
3 from the time that the first psychiatrist
4 made decision to admit.

5 Q. Once the psychiatrist made a
6 decision to admit, your understanding is
7 that the second physician must do what
8 within 48 hours?

9 A. To do his own evaluation and
10 come to conclusion.

11 Q. And did you do your own
12 evaluation and come to your own
13 conclusion?

14 A. Yes.

15 Q. We had previously read in a
16 note of yours from 2 p.m. on the 4th, is
17 that the time when you did your
18 evaluation and came to your own
19 conclusions?

20 A. Yes.

21 Q. When did you fill out this form
22 that we have in front of you now in the
23 hospital chart, the second page which
24 starts at the top "Emergency Admission
25 9.39 Mental Hygiene Law, starts with

1 I. ISAKOV
2 roman number III, "Examination to Confirm
3 Need for Extension of" -- I can't read
4 it because it's blocked out.

5 When did you fill that form
6 out?

7 A. I fill that at the time when I
8 read my note.

9 Q. At 2 p.m.?

10 A. Yes.

11 Q. On the 4th?

12 A. Yes.

13 Q. So you made your determination
14 on November 4th, 2009, at 2 p.m.?

15 A. I believe so.

16 Q. Is there a reason why you
17 didn't put a time in the form 'cause it
18 does seem to ask for a time? Is there a
19 reason you didn't put a time?

20 A. I don't think it was a specific
21 purpose, maybe just I missed the time;
22 but I put the time in my note.

23 Q. You wrote in the note before,
24 right after, at the same time as --

25 A. Right after when I was sitting

1 I. ISAKOV

2 writing my chart, I fill out my note and
3 I fill out evaluation.

4 Q. So there was no new evaluation
5 before you filled this out other than the
6 one we just finished going through?

7 A. No.

8 Q. Let's go to what you wrote
9 under Section III (a). You wrote what?

10 A. Thirty-nine year old male
11 without past psychiatric history
12 presented to emergency room with,
13 quote/unquote, paranoid ideations and
14 admitted for further evaluation.

15 Q. Let me ask you a question: Why
16 did you put, quote/unquote, paranoid: Is
17 that the same thing as you put before,
18 question mark, paranoid?

19 A. Yes.

20 Q. That's the same reason?

21 A. Right, but I did not --
22 probably when I was writing, I was
23 reflecting my own understanding about his
24 real paranoia or questionable paranoia.

25 Q. So you put quotations around

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1 I. ISAKOV

2 paranoid because at that point you hadn't
3 yet made up your mind that he was
4 paranoid, correct?

5 A. Yeah.

6 "Physical condition, stable."

7 Q. So Section B was physical
8 condition, and you wrote "stable."

9 A. Stable.

10 Q. Mental condition?

11 A. Mental condition, Patient very
12 anxious, suspicious, afraid that his
13 superiors in the police department wanted
14 to get rid of him, quote/unquote.

15 Part D, "The patient showed the
16 following psychiatric signs and symptoms:
17 anxiety and paranoid quality ideations."

18 Q. Paranoid quality ideations,
19 what did you mean when you wrote that?

20 A. The same questionable paranoid.

21 Q. So now you have your diagnosis
22 of anxiety and questionable paranoid
23 ideations, correct?

24 A. Right.

25 Q. Can you keep reading?

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1 I. ISAKOV

2 MR. RADOMISLI: Objection to the
3 form of the question.

4 A. Part E, "Does the patient show
5 tendency to cause serious harm to
6 himself?" I marked no. "To others," I
7 marked no.

8 Q. Let me just ask you: That was
9 your opinion, Section E, that was your
10 opinion when you wrote this form,
11 correct?

12 A. Yes.

13 Q. And by checking those boxes,
14 you were expressing your opinion in
15 writing, correct?

16 A. Yes, if he did not express any
17 suicidal or homicidal ideations.

18 Q. And what did you write after
19 that?

20 A. Okay. "Mental diagnosis if
21 determined." I put "psychosis NOS. Rule
22 out adjustment disorder."

23 Q. Which is what you wrote on your
24 note earlier, correct?

25 A. Yes.